FOR MYSORE STATE

DEVELOPMENT (195 2) Department.

SERIES.

G.O. No Ms. 2147.

Dated 19th May 1952.

[Despatch Abstract.]

Mines - Minerals - ML - Collection of royalty on minerals lost by theft. Extension of supplemental lease deed. Further instructions.

Government of Madras.

ABSTRACT

Mines - Minerals - Mining lease - Collection of royalty on minerals lost by theft - Execution of supplemental lease deed - Further Instructions.

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NOTE FILE

Development Department.

Sub:- Mines Minerals - Mining lease - Collection of Royalty on menerals lost by theft - Execution of Supplemental lease deed.

Ref:- From the Director of Industries and Commerce, No. J/1662/52, dated 2-4-1952.

In september 1949, the Collector of Nellore reported that there was loss of 90 lbs Mica in the Sai Baba Mica Mine due to the carelessness of the management of the lessee and requested instructions whether enhanced royalty and dead rent might be levied in such cases. The Board in turn sought the instructions of the Government pointing out that there was no specific provision in the lease deed to deal with such careless ness on the Part of the lessees, as the one reported by the Collector. As the Govt. could not forego their royalty for causes due to the negligence of the lessee, it was considered that provision should be made in lease deed for the recovery of royalty on the Mica that may be lost by theft and also for the recovery of an additional royalty as penalty, if the loss is due to negligence on the part of the lessee. The Legal Department stated that a provision as suggested above might be made and that in respect of current leases, supplemental deeds might be executed providing for the collection of royalty as stated above. Orders where accordingly issued in G.O. 3039 Development, dated 4-8-1950. The Board was also asked to submit a draft form of thesupplemental deed, in consultation with the Govefnment Solicitor (Now State Counsel). Im Memorandum No. 94123-J/50-7, dated 29/3-1951, Government directed that the supplemental deed should be executued in the form at pages 3234 of (Z).

2. The Associated Cements Limited, have questioned the validity of the conditions proposed to be imposed by the supplemental deed. The Collector and the Director of Industries have requested instructionsfor giving effect to the orders.

3. It is submitted that in the case of the lease granted under the M-C.Rules similar conditions have not been included in the Standard form as such conditions fall beyond the scope of the provisions of Rule 41. The Government of India were hower specially addressed for the inclusion of these elaused in the standard form. The have not accepted the suggestion as the standard form prescribed by them doest not include these conditions. Hence, it is only in thecase of the leases sanctioned under the old rules and which was still subsisting the above clauses were oredered to be included, It is submitted that according to rule (50 of the Old rules (page 78 of the Madras Mining Manual) every mining lease shall contain such conditions andstipulations as the local Government, may in each case donsider necessary. The same rules further prescribes the essential conditions which every mining lease should contain. In view of this rule, it will be intra vires of this Government. ~~In view of this rule, it will~~ be have even at the outsel inluded in the lease dedd, conditions such as those under reference regarding theft of minerals or loss of minerale due to carelessness on the part of the leassee. When the question was first examined Legal advised that these conditions might be included in the subsisting leases by executing a supplemental deed. But rule 50 referred to above would seem to imply the inclusion of such conditions only when the lease deed is initially executed. It appears that after a lease deed is once executed the imposition of fresh conditions by supplemental

deeds,

deeds, should be with the consent of the party oncerned. Legal may be requested to calrify the positon so that clezr instructions may be issued to all Collectors.

D.S. S.A. 3-5-52

Legal Department.
(Openions)

This department agrees with the view expressed by Development that in the absence of the specific provision in rule 50 of the Old Mining Rules, the orgigal lease deed enjoing on the lessee that he would be bound by any further condition that may be imposed by Government from time to time, it will not be possible to enforce the execution of the supplemental agreement on the at pages 37-38 c.f. of G.O.No. 3039, Development, dated 4-8-1950. line. The supplemental agreement can be entered into only if the other party agrees to it.

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Development.

Development Department.

TO A.S.

Notes from page 1 above may be perused. With reference to 'A' on page 2 above Legal Department have stated that the supplemental agreement can be entered into only if the other party agrees to it. The Collectors may be informed accordingly. Subject to orders a draft order is submited for approval.

D.S. S.A.
18-5-1952.

/True Copy/

V. RAMAN. 23/11/1952

SUPERINTENDENT.

Examined by Mr. Ramadoss
Recd by Clerk
26.11